



ZONING ADMINISTRATOR NOTICE OF DECISION

Date: March 3, 2011
Applicant: Patricia Ruesga
Case No.: ZAV-10-03
Address: 361 East J Street
Project Planner: Michael W. Walker

Notice is hereby given that on March 3, 2011 the Zoning Administrator considered a variance application filed by Patricia Ruesga ("Applicant/Property Owner") requesting a variance to allow a portion of a retaining wall to encroach into the required front yard setback ("Project"). The Project is located at 361 East J Street ("Project Site"). The Project Site is zoned Single-Family Residential, Hillside Development, Precise Plan (R1HP) by the Chula Vista Municipal Code (CVMC), and designated Residential Low - Medium (RLM) by the General Plan. The Project is more specifically described as follows:

The subject property was included in a rezone of 6.28 acres, consisting of four lots, from R-1, PC and R-1-H to R-1-H-P approved in 1982 by the City Council. In particular, the "P" modifying designation was applied because the 30 percent sloped topography, geological characteristics and access among other constraints, would require special handling for development in consideration of the General Plan's designation of East J Street as a scenic route (Ord 2013)

The property is an irregular shaped lot, 1.15 acres in area with a long, narrow and angled configuration with a 67-foot wide front property line situated on the north side of East J Street. The front property line has an approximate 30-degree angle that angles away from East J Street toward the lot in a north direction, and the lot contains a slope that descends approximately 10 feet below the street level and extends north in a gradual down slope pattern eastward toward the 805 Freeway. The lot is developed with a single-family dwelling with an attached two-car garage. The lot is one of three such adjacent, developed properties (365 and 377 East J Street) that share a common driveway accessed from East J Street. The subject lot is the first and nearest the driveway entry point, which is also the steepest area.

Last year, the owner of the subject property built a 10-foot high, approximate 50-foot long (in two sections) retaining wall, with a portion of it encroaching into the required 22 front yard setback, without obtaining the proper permits. The retaining wall was included in a notice of violation, among others on the property, resulting in a code enforcement case (C10-1153). The owner built the wall to facilitate parking and access to and from the residence

The Property Owner's justification for the variance request is the topographical constraint, which is caused by a steep slope at the front of the property, and the angled front property line that limits the ability to erect a structure in the front yard. The steepness is hazardous for vehicle maneuvering when entering and exiting the driveway to and from East J Street, and walking up and down to the residence from the sidewalk. Furthermore, vehicular and pedestrian traffic visibility is limited from the west approach when attempting to enter onto East J Street. The retaining wall supports a level area to park vehicles on the property, which will aid in better access onto the subject property and the public right-of-way.

The Project was reviewed for compliance with the California Environmental Quality Act and it has been determined that the Project qualifies for a Class 5 categorical exemption pursuant to Section 15305 (Minor Alterations in Land Use Limitations) of the State CEQA Guidelines. No further environmental review is necessary.

The Zoning Administrator, under the provisions of Section 19.14.030.B of the Chula Vista Municipal Code, has conditionally approved said request based upon the following findings of fact as required by CVMC Section 19.14.190:

- 1. That a hardship peculiar to the property and not created by any act of the owner exists. Said hardship may include practical difficulties in developing the property for the needs of the owner consistent with the regulations of the zone.**

The property contains a slope beginning at the front portion of the property perpendicular to and north of East J Street then slopes down toward to the rear of the property. The steepness of the slope affects the subject property more significantly than the adjacent properties sharing the same driveway, which creates a topographical condition that hinders vehicular maneuverability and access to and from the residence, which provides a level area for parking, and a pedestrian access point that will enable access and sufficient maneuverability on the property. Although a portion of the retaining wall encroaches into the front setback, the wall and the parking area are entirely within the property boundaries, and does not encroach into the public right-of-way. The wall is consistent with the intent of the previous rezone explained above.

- 2. That such a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning districts and in the same vicinity, and that a variance, if granted would not constitute a special privilege of the recipient not enjoyed by his neighbors.**

The variance for the retaining wall provides a level area for sufficient and safer vehicle maneuvering and access when exiting and entering the property to and from East J Street. Granting the variance would not provide a special privilege because the owner is attempting to provide safe entry and exit to and from the property. The Property owner obtained letters from adjacent neighbors supporting the variance.

3. **That the authorizing of such variance will not be of substantial detriment to the adjacent property and will not materially impair the purposes of this chapter or public interest.**

Granting of this variance will not be of substantial detriment to adjacent properties because it does not change the use consistent with the R1HP zone structural height, setbacks and parking requirements. Furthermore, there will be no physical or visual impairment created by the variance. The overall existing physical condition of the property will be maintained, and the retaining wall would not impact adjacent properties.

4. **That the granting of this variance will not adversely affect the General Plan of the City or the adopted plan of any government agency.**

Granting of this variance will not affect the City's General Plan because the retaining wall will not encroach into the required front yard setback, and the parking area will be within the front property line, thereby not affecting the character of the property or surrounding neighborhood, and the East J Street scenic designation will not be impacted because the wall will not extend above street level. The retaining wall, as proposed, would be in keeping with the implementation of the General Plan vision for stabilizing single-family neighborhoods.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Variance application ZAV-10-03 as described above subject to the following conditions:

1. The Project Site shall be maintained in accordance with the ZAV-10-03 approved plans dated March 3, 2011, which include site plan, floor plan, elevations and photographs on file in the Planning Division, and the conditions contained herein, and Title 19.
2. Approval of this request shall not waive compliance with all sections of Title 19 of the Municipal Code, and all other applicable City Ordinances in effect at the time of building permit issuance or the approval of this Variance.
3. The Applicant/Property Owner shall execute this document by making a true copy and signing both this original Notice of Decision and the copy on the lines provided below, said execution indicating that the Applicant/Property Owner have each read, understood and agreed to the conditions contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document within 30 Days of the effective date herein shall indicate the Applicant/Property Owner's desire that the project, and corresponding application for building/grading permits and/or business license, be held in abeyance without approval.

Signature of Property Owner/representative

Date

4. The Property Owner shall and does hereby agree to indemnify, protect, defend and hold harmless City, its Council members, officers, employees, agents and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorneys' fees (collectively, "liabilities") incurred by the City arising, directly or indirectly, from (a) City's approval and granting of this variance, and (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein. Property Owner shall acknowledge their agreement to this provision by executing a copy of this conditional use permit where indicated, above. Property Owner's compliance with this provision is an express condition of this variance and this provision shall be binding on any and all of Property Owner's successors and assigns.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,
CALIFORNIA, this 3rd day of March 2011.



Mary Ladiana
Zoning Administrator